REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Final Office Action mailed on September 15, 2009, and the references cited therewith.

Claims 1, 12, and 22 are amended, claims 2-4 are canceled, and no claims are added; as a result, claims 1 and 5-38 are now pending in this application.

Information Disclosure Statement

Applicant respectfully requests that a copy of the 1449 Form, listing all references that were submitted with the Information Disclosure Statement filed on December 16, 2003; May 25, 2005; June 1, 2005; and October 7, 2005, marked as being considered and initialled by the Examiner, be returned with the next official communication.

Specification Objections

Claims 30-38 were objected, as based on a disclosure which is not enabling. Applicant respectfully submits that a tabulation unit was included in the claims of the originally filed application, which is part of the specification, and is defined and enabled as "a tabulation unit to tabulate the number of received signals", as recited in originally filed independent claim 30. Also, a tabulation unit is enabled throughout the detailed description portion of the specification. One example is at page 9, lines 25-28 which states "The micro controller unit (MCU) 214 can be used to control the functions of the monitoring device 200. For example, the MCU 214 can include program instructions such functions as handling received information from the sensors in the monitoring system and analyzing the count data, among others."

As such, Applicant respectfully submits that claims 30-38 are enabled by the specification as originally filed. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to claims 30-38.

§ 101 Rejection of the Claims

Claims 1-21 were rejected under 35 USC § 101 because no physical transformation was being produced. Applicant respectfully traverses the rejection as follows.

Page 3 of the Office Action mailed on September 15, 2009, states that claims 1-21 are rejected under § 101 because no physical transformation is being produced. Applicant has amended independent claims 1 and 12 such that the method steps recited therein are tied to a particular machine, e.g., "a computing device having a computer processor and computer-readable code stored on a computer-readable medium and executable by the computer processor." Further, Applicant has amended independent claims 1 and 12 such that the method steps recited therein are performed by a particular machine, e.g., by the computing device.

As such, Applicant respectfully submits that claims 1-21 are not directed to non-statutory subject matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 101 rejection of claim 1-21.

§ 103 Rejection of the Claims

Claims 1, 5, 8. 11 and 30-38 were rejected under 35 USC § 103(a) as being unpatentable over David (U.S. Patent No. 5,544,649) in view of Rogers (U.S. Patent No. 6,957,107). Applicant respectfully traverses the rejection as follow.

Applicant's independent claim 1 recites, in part:

> determining a behavior routine of the individual with the computing device based on recorded activations of the sensor;
> analyzing the recorded sensor activations with the computing device to determine a behavior routine;
> identifying a change in the behavior routine with the computing device based on the analysis of the recorded sensor activations.

Applicant's independent claim 30 recites, in part, "an analysis unit to analyze the tabulated signals to determine a behavior routine and identify changes in the behavior routine."

Applicant's independent claim 36 recites, in part, "a contacting unit to initiate contact with a third party selected from a hierarchical list of third party contacts based on <u>a defined level of change in a behavior routine</u> when directed by the processing unit."

From Applicant's review of the David reference, David appears to teach an interactive television and audio patient monitoring system. (Column 4, lines 57-60). The patient monitoring system in David can monitor a patient's routine activities and/or measure a medial condition of the patient using sensors and/or a video camera. (Column 10, lines 13-17 and 62-66 and Column 20, lines 47-57). David does not teach determining a behavior routine, analyzing a behavior routine, or identifying a change in a behavior routine.

And Applicant respectfully submits that the Rogers reference does not cure the deficiencies of the David reference. Rogers appears to teach a method and apparatus for communicating with and monitoring the operation of a device implanted within a patient. (Abstract). Rogers does not teach determining a behavior routine, analyzing a behavior routine, or identifying a change in a behavior routine.

Accordingly, Applicant respectfully submits that the David and Rogers references do not teach or suggest, either individually or in combination, "<u>determining a behavior routine</u> of the individual with the computing device based on recorded activations of the sensor; analyzing the recorded sensor activations with the computing device <u>to determine a behavior routine</u>; <u>identifying a change in the behavior routine</u> with the computing device based on the analysis of the recorded sensor activations", as recited in independent claim 1.

Nor do the David and Rogers references teach or suggest, either individually or in combination, "an analysis unit to analyze the tabulated signals <u>to determine a behavior routine</u> and <u>identify changes in the behavior routine</u>", as recited in independent claim 30, or "a contacting unit to initiate contact with a third party selected from a hierarchical list of third party contacts based on <u>a defined level of</u>

change in a behavior routine when directed by the processing unit", as recited in independent claim 36.

As such, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejections of independent claims 1, 30, and 36, as well as those claims which depend therefrom.

Claims 6, 7, 9 and 10 were rejected under 35 USC § 103(a) as being unpatentable over David (U.S. Patent No. 5,544,649) in view of Rogers (U.S. Patent No. 6,957,107) and in view of Nichols (U.S. Patent No. 5,330,513). Applicant respectfully traverses the rejection as follows.

Claims 6, 7, 9, and 10 depend from independent claim 1. As described above, Applicant respectfully submits that independent claim 1 is in condition for allowance. Applicant respectfully submits that the Rogers and Nichols references do not cure the deficiencies of the David reference. Nichols appears to teach a system that can send data from the pacemaker to a computing device, where the computing device can derive an optimized pacing rate for an individual. (Column 4, lines 26-42). Rogers appears to teach a method and apparatus for communicating with and monitoring the operation of a device implanted within a patient. (Abstract).

Accordingly, Applicant respectfully submits that the David, Rogers, and Nichols references do not teach or suggest, either individually or in combination, "determining a behavior routine of the individual with the computing device based on recorded activations of the sensor; analyzing the recorded sensor activations with the computing device to determine a behavior routine; identifying a change in the behavior routine with the computing device based on the analysis of the recorded sensor activations", as recited in independent claim 1.

As such, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejections of dependent claims 6, 7, 9, and 10, which depends from independent claim 1.

Claims 12-21 were rejected under 35 USC § 103(a) as being unpatentable over Nichols (U.S. Patent No. 5,330,513) in view of Rogers (U.S. Patent No. 6,957,107). Applicant respectfully traverses the rejection as follow.

Applicant's independent claim 12 recites, in part:

recording, by a computing device having a computer processor and computer-readable code stored on a computer-readable medium and executable by the computer processor, data counts from sensors activated by an individual during a time period on the computing device in communication with the sensors to determine a behavior routine of the individual.

From Applicant's review of the Nichols reference, Nichols appears to teach an optimized pacemaker. (Column 4, lines 18-21). The pacemaker in Nichols can send data from the pacemaker to a computing device where the computing device can derive an optimized pacing rate for an individual. (Column 4, lines 26-42). Nichols does not teach determining a behavior routine for an individual.

And Applicant respectfully submits that the Rogers reference does not cure the deficiencies of the Nichols reference. Rogers appears to teach a method and apparatus for communicating with and monitoring the operation of a device implanted within a patient. (Abstract). Rogers does not teach determining a behavior routine for an individual.

Accordingly, Applicant respectfully submits that the Nichols and Rogers references do not teach or suggest, either individually or in combination, "recording, by a computing device having a computer processor and computer-readable code stored on a computer-readable medium and executable by the computer processor, data counts from sensors activated by an individual during a time period on the computing device in communication with the sensors to determine a behavior routine of the individual", as recited in independent claim 12.

As such, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejections of independent claim 12, as well as those claims which depend therefrom.

Claims 22-29 were rejected under 35 USC § 103(a) as being unpatentable over David (U.S. Patent No. 5,544,649) in view of Nichols (U.S. Patent No. 5,330,513) further in view of Rogers (U.S. Patent No. 6,957,107). Applicant respectfully traverses the rejection as follow.

Applicant's independent claim 22 recites, in part, "determining a behavior routine of the individual based on the sensed data counts."

From Applicant's review of the David reference, David appears to teach an interactive television and audio patient monitoring system. (Column 4, lines 57-60). The patient monitoring system in David can monitor a patient's routine activities and/or measure a medial condition of the patient using sensors and/or a video camera. (Column 10, lines 13-17 and 62-66 and Column 20, lines 47-57). David does not teach determining a behavior routine of an individual.

And Applicant respectfully submits that the Nichols and Rogers references do not cure the deficiencies of the David reference. Nichols appears to teach a system that can send data from the pacemaker to a computing device, where the computing device can derive an optimized pacing rate for an individual. (Column 4, lines 26-42). Rogers appears to teach a method and apparatus for communicating with and monitoring the operation of a device implanted within a patient. (Abstract). Neither Nichols nor Rogers teach determining a behavior routine for an individual.

Accordingly, Applicant respectfully submits that the David, Nichols, and Rogers references do not teach or suggest, either individually or in combination, "determining a behavior routine of the individual based on the sensed data counts", as recited in independent claim 22.

As such, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejections of independent claim 22, as well as those claims which depend therefrom.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0121 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8:
The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this __15^th__ day of
_____Deuember_____,
2009.

_____Alison L. Subinchan_____
Name

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